

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH  
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF DECEMBER  
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE K.C. BHANU**

**WRIT PETITION NO : 15688 of 2004**

Between:

- 1 The A.P.Cooperative Central Bank Employees Association rep., by its District Secretary  
Sri P.Venkata Swamy, s/o Subba Rao,**
- 2 Tall Koti Reddy, s/o Venkatappa Reddy,  
D.No.8-384, Sundar Nagar, Mangamur Donka, Ongole-523002**
- 3 Beerala Obaiah, s/o Narasaiah,  
r/o Rajapanagal Road, 6th Cross Road, Ongole-523 001.**
- 4 Korabandi Abraham, s/o Soulous,  
D.No.1-3-72, Goddalagunta, Ongole.**
- 5 K.Venkata Ramanaiah, s/o Guravaiah,  
r/o 20-6-68, Anjaiah Road, Brundavan Nagar, 4th Line, Ongole.**
- 6 Nandi Narayana, s/o Kotilingam,  
r/o 5-44, Venkateswara Nagar, Kurnool Road, Ongole-523 001.**
- 7 V.Chenchu Rami Reddy, s/o Punna Reddy,  
H.No.8-401, Sundar Nagar, Manganur Donka, Ongole.**

..... PETITIONERS

**AND**

**The Prakasam District Co.operative Central Bank rep., by the General Manager, Ongole.**

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a direction, order or writ more particularly one in the nature of writ of mandamus a. declaring the action of the respondent in withholding the monies from the terminal benefits of petitioner Nos.2 to 7 as arbitrary, illegal and unjust and also contrary to the directions passed by this Hon'ble Court in writ petition Nos.22698 of 2001 and 17102 of 2002; b. refrain the respondent from effecting any recoveries from the terminal benefits of the retired employees of the respondent bank towards

Dearness Allowance and the difference in pay paid to them consequent upon the categorisation of the Respondent-Bank as A class Bank; c. consequently direct the respondent bank to release the amounts withheld by it to the retired employees together with interest from the date on which the payment becomes due i.e., the date immediately after their retirement till the date of actual realization;

**Counsel for the Petitioner:MR.SIVA**

Counsel for the Respondent : MR.R.V.SUBBA RAO FOR RVAK.

The Court made the following :

**The Hon'ble Sri Justice**

**K.C. Bhanu**

**W.P. No. 15688 of 2004**

**ORDER:**

This writ petition under Article 226 of the Constitution of India is to issue a writ, more particularly one in the nature of Mandamus, declaring the action of the respondent in withholding the monies from the terminal benefits of the petitioners 2 to 7 as arbitrary and illegal and contrary to the directions issued by this court in W.P.Nos. 22698 of 2001 and 17102 of 2002 and restrain the respondent from effecting any recoveries from the terminal benefits of retired employees of the respondent bank towards Dearness Allowance and the difference in pay paid to them consequent upon the categorization of the respondent-bank as A Class bank with a consequential direction to the bank to release the amounts withheld by it to the retired employees together with interest from the date on which the payment becomes due.

The brief averments that are required to be noticed for the disposal of the writ petition may be stated as follows:

The conditions of service of an employee of the

respondent-bank are governed by the terms of the A.P. Cooperative Societies Act and the Rules made there under. Petitioners 2 to 7 have been employed in the respondent-bank and have retired on various dates. The dispute in the writ petition relates to the terminal benefits. The 1<sup>st</sup> petitioner espoused the cause of other retired employees whose terminal benefits have also been adversely affected by the action of the respondent-bank. As per the terms of the settlement, the District Cooperative Central Banks are liable to be classified into A, B & C Class Banks depending upon the conditions stipulated therein. By virtue of such classification, the employees of the banks will be fixed in the time-scale of each of the category. As per the term of settlement, the respondent-bank was liable to be classified as A-Class bank w.e.f. 1.4.2000. Since the condition stipulated therein has been complied with, the respondent-bank has been classified A-Class Bank w.e.f. 1.4.2000. Consequent upon such classification, the employees of the bank have been paid salaries and allowances as applicable to the employees of the A-Class banks. While the petitioners herein have been drawing salaries and allowances based upon such a classification, on the ground that the classification is liable to be made taking into account the working profit allotment as well it has been decided that the respondent-bank cannot be classified as A-Class bank. The action of the respondent-bank was assailed before this court by filing W.P.22698 of 2001 wherein it is prayed that the respondent-bank continue the classification as A-Class for the purpose of payment of wages. By way of interim order dated 2.11.2001, a direction was given to the respondents to maintain status-quo as existing on 2.11.2001. It is further stated that the payment of D.A. is contemplated in the settlement. As a policy decision has been taken that no D.A. is liable to be paid to the employees of the respondent-bank, the Association assailed the same by filing W.P. 17102 of 2002. This Court passed interim directions as prayed for 6.9.2002 and therefore by virtue of that interim order the employees of the District Cooperative Central Banks have continued to draw Dearness Allowance as decided originally.

The respondent-bank is a party to both the writ petitions and therefore it could not take any stand contrary to the directions issued by the court. The petitioners are now aggrieved by the action of the respondent-bank in recovering the amounts towards these two heads towards terminal benefits. The action of the amounts to violating the directions passed by this court. Hence the present writ petition.

A counter affidavit has been filed stating that the statement that was arrived at on 15.6.1997 was effective only for a period of five years and the period of agreement expired in the year 1997 itself and there is no further settlement in this regard. The service regulations are purely governed by Section 116A of the A.P. Cooperative Societies Act. At the time of the Settlement that was made in the year 1997, the bank was classified as B Class bank inasmuch as the working capital was less than Rs.125.00 crores. The working capital was reviewed on 31.3.1998 and the bank was placed in A Class category w.e.f. 1.4.1998. As per the classification schedule, the bank will be classified in A category, if it has to maintain profits of not less than Rs.50.00 lakhs every year from 1997-2000 onwards and the cost of the management should not exceed 2% of the working capital and if the abovementioned two standards are not maintained, the bank would be degraded. The Executive Director of the A.P. Cooperative Bank Associations, Hyderabad vide its letter dated 17.10.2001 had informed that the respondent-Bank has not earned the minimum of Rs.50.00 lakhs of profits and, therefore, had degraded the Bank from A category to B category w.e.f.1.4.2000 and the additional benefits that were drawn by the employees on account of A Classification also withdrawn w.e.f. 1.4.2000. The Managing Committee of the Bank took a decision in the context of classification of Bank in its meeting held on 15.11.2001 and had sanctioned salaries as prescribed for A class Bank and the payment for the retired employees was effected as per the categorization in B Class and had kept the differential amount in suspense account until the receipt of the final orders from this court. Accepting the request of the

retired employees that amount was kept in fixed deposit. The bank had followed the instructions of the Banks' Association to safeguard public funds. No prejudice is suffered by the petitioners 2 to 7 inasmuch as the amounts are kept in fixed deposits, pending the above mentioned writ petition. Hence, the respondent prays to dismiss the writ petition.

Learned counsel for the petitioners contended that the respondent-bank cannot withhold the monies from the terminal benefits of the petitioners 2 to 7 and the said act of the respondent is contrary to the directions passed by this court in W.P. 22698 of 2001 and 17102 of 2002 and the respondent cannot effect any recoveries and therefore he prays to give consequential direction to release the amounts withheld by the bank to the retired employees together with interest from the date on which the payment becomes due.

On the other hand, learned counsel for the respondent contended that this court has not finally decided whether the petitioners are entitled for the differential amount and the respondent-bank would abide by the directions that may be given in the two writ petitions and the direction given is only pending disposal of the writ petition and not a final order and therefore the respondent has not committed any irregularity in withholding the amount. Hence, he prays to dismiss the writ petition.

It is not in dispute that WP 22698 of 2001 was filed with a prayer that the respondent-Bank continue the classification as A-Class for the purpose of payment of wages. As a policy decision was taken that no D.A. was liable to be paid to the employees of the respondent-bank and other District Cooperative Central Banks, another writ petition in W.P.17102 of 2002 was filed. This court passed an interim direction on 6.9.2002, thereby the employees are drawing the D.A. as decided originally. It is not in dispute that the respondent-bank withheld certain amounts of the petitioners 2 to 7. It is also not in dispute that at the request of petitioners 2 to 7 the amounts due to them were kept in fixed deposit. When the

employees association filed W.P.M.P. 28561 of 2001 in WP 22698 of 2001, status quo existing as on that day was directed to be maintained with regard to payment of wages to its employees which are being paid as a basis that the 1<sup>st</sup> respondent-bank as if class A Bank. Petitioners 2 to 7 are not the employees of the bank as they have retired from service. Therefore, status quo order as issued by this court cannot come to the rescue of the petitioners in withdrawing certain amounts which are withheld by the respondent-bank. In any view of the matter, whether the respondent-bank is in the category of A-Class and the employees either serving or retired are entitled for payment of wages as A-Class bank, is required to be decided in the main writ petition i.e. W.P.22698 of 2001. Till then, no action can be taken with regard to payment of terminal benefits of petitioners 2 to 7. It is not a case of withholding the terminal benefits of petitioners 2 to 7 illegally or without any authority of law.

The case of the respondent is that the respondent-bank has not earned the minimum of Rs.50.00 lakhs of profits and the bank was degraded from A to B category w.e.f. 1.4.2000 and the additional benefits that were drawn by the employees on account of classification/categorization were withdrawn. It is not disputed before this court that as per classification a bank has to be classified in A-category if it has to maintain the profits not less than Rs.50.00 lakhs every year from 1997-2000 and the cost of management should not exceed 2% of the working capital. It is not also in dispute that if the two conditions are not fulfilled or maintained, the bank would be degraded.

The withholding of the terminal benefits of the petitioner is only to safeguard the public funds of the bank. It is also made clear in the counter affidavit that in the event the writ petition is allowed the petitioners can as well withdraw the same. It is not as though withholding of the terminal benefits of the petitioners is against law or any rules governing the rules or provisions under the A.P.

Cooperative Societies Act. Even if it is assumed that the respondent-bank is facing financial problems, still no prejudice would be caused to petitioners 2 to 7 inasmuch as the amount due to them is admittedly in the fixed deposit. The withholding of the amount cannot be said to be contrary to the interim orders passed by this court in W.P. 22698 of 2001. The issue whether the petitioners 2 to 7 are entitled for D.A. as per the categorization of the respondent-bank has to be determined and decided in the main writ petition, which is admittedly pending before this court.

Under these circumstances, this court is of the opinion that withholding of the terminal benefits of the petitioners 2 to 7 is not shown to be illegal or contrary to the interim directions issued by this court. Since the amount due to petitioners 2 to 7 is kept in fixed deposit, it is desirable and advisable to await the final adjudication by this court. To safeguard the public money, a direction cannot be given to release the amounts withheld by the respondent-bank inasmuch as the *lis* has to be adjudicated by this court finally. In the absence of any illegality committed by the respondent-bank in withholding the amount and as the matter has to be decided finally by this court, I am of the considered opinion that the prayer in the writ petition as sought for is devoid of merit and therefore it is liable to be dismissed.

The writ petition is accordingly dismissed. In the circumstances, no costs.

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**K.C. Bhanu, J.**

**Date: --12—2004.**

MVB.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

**To**

**1. The General Manager,**

**The Prakasam District Co-operative Central Bank, Ongole.**

2.2CD copies.